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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,262	12/16/2004	Wolfgang Johannes Obermann	AT 020039	8325

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

ALIE, GHASSEM

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/518,262

Applicant(s)

OBERMANN, WOLFGANG
JOHANNES

Examiner

Ghassem Alie

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 7-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Election by Original Presentation

1. Newly submitted claims 7-20 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Claims 1-6, 7-13, and claims 14-20 are distinct subcombinations and they are separately usable.

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-6, drawn to an hair-cutting apparatus including means for counter-acting flying off cut hair from the hair-cutting apparatus having a boundary wall comprising of a stationary portion and a movable portion wherein the movable portion is arranged and positioned to cooperate with the hair to be cut, classified in class 30, subclass 133.
- II. Claims 7-13, drawn to an hair-cutting apparatus including a counter-acting means for counter-acting flying off cut hair having a boundary wall extending adjacent to the cutting arrangement and a movable portion being movable relative to the stationary portion in cooperation with the hair contemporaneously cut, classified in class 30, subclass 134.
- III. Claims 14-20, drawn to an hair-cutting apparatus including a counter acting means having a suction opening enabling an air flow therethrough and varier means for varying the air flow in the region of the suction opening in cooperation with the hair contemporaneously cut, classified in class 30, subclass 201.

The inventions are distinct, each from the other because:

Inventions I-III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. For example, invention I has separate utility such as it could be used without the boundary wall extending adjacent to the cutting arrangement and the movable portion moving relative to the stationary portion in cooperation with the hair contemporaneously cut set forth in invention II. Conversely; invention II has a separate utility such as it could be use without the means for counter-acting flying off cut hair from the hair-cutting apparatus and the movable portion being arranged and positioned to cooperate with the hair to be cut set forth in invention I. It should be noted that there is a different between arranging and positioning the movable portion to cooperate with the hair to be cut and moving the movable portion relative to the stationary portion in cooperation with the hair contemporaneously cut. In invention II the movable portion moves relative to the stationary portion at the same time that the hair is being cut. However, in invention I that is not required. In invention I, the movable blade is arranged and positioned to cooperate with the hair to be cut and there is no need for the hair to be cut at the same time or for the movable portion to move at the same time when the hair is being cut. It also should be noted that invention II does not require that the movable portion to be positioned to cooperate with the hair to be cut. Furthermore, invention III does not positively call for the cut hair to fly off a hair-cutting apparatus. See MPEP § 806.05(d).

Invention I has a separate utility such as could be used without the counter-acting means that includes a suction opening enabling an air flow and varier means for varying the air flow in the region of the suction opening in cooperation with the hair contemporaneously

cut set forth in invention III. Conversely, invention III has a separate utility such as it could be used without the counter acting means that includes a boundary wall as set forth in invention I. It should be noted that invention III does not require that the counter-acting means have a boundary wall. See MPEP § 806.05(d).

Invention II has a separate utility such as could be used without the counter-acting means that includes a suction opening enabling an air flow and varier means for varying the air flow in the region of the suction opening in cooperation with the hair contemporaneously cut set forth in invention III. Conversely, invention III has a separate utility such as it could be used without the counter acting means that includes a boundary wall as set forth in invention II. It should be noted that invention III does not require that the counter-acting means have a boundary wall. See MPEP § 806.05(d).

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 7-20 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Caskins (2,946,122). Regarding claim 1, Caskins teaches a hair-cutting apparatus 10, 12 including a cutting arrangement 14 for cutting hair and means 12 for counter-acting flying off cut hair from the hair-cutting apparatus 10, 12. Caskins also teaches that means 12 includes a boundary wall 30, 58 extending close to the cutting arrangement 14. Caskins also teaches that the boundary wall 10, 12 includes a stationary portion 30 and a portion 58 that is movable relative to the stationary portion 30. Caskins also teaches that the movable portion is being arranged and positioned to cooperate with the hair to be cut. See Figs. 1-5 and col. 1, lines 55-72 and col. 2, lines 1-42 in Caskins.

Regarding claim 5, Caskins teaches everything noted above including a suction arrangement 16, 18 is provided to suck away cut hair, and the suction arrangement 16, 18 includes a suction passage 21 that is defined by passage walls. Caskins also teaches at least some of that passage walls extend close to the cutting arrangement 9 and ends of which situated close to the cutting arrangement define a suction opening through which air be sucked into the suction passage 18. Caskins also teaches that the air is sucked into the passage 18 in a direction of suction at a given velocity of flow. Caskins also teaches a passage wall 30, 58 is formed by the boundary wall having the stationary portion 30 and the movable portion 58.

Regarding claim 6, Caskins teaches everything noted above including that the suction arrangement 16, 18 includes a varier means 54, 58 for varying the velocity of the flow in the region of the suction opening and wherein the varier means 54 are formed by the movable

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portion 58 of the boundary wall 30, 58.

5. Claims 1, 2, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Severson (1,506,139). Regarding claim 1, Severson teaches a hair-cutting apparatus including a cutting arrangement 12, 16 for cutting hair and means 9, 10, 37 for counter-acting flying off cut hair from the hair-cutting apparatus. Severson also teaches that means 9, 10, 37 includes a boundary wall extending close to the cutting arrangement 12, 16. It should be noted that the top portion of the cutter carrying end 7 of the handle 5 and the hood or guard 37 which moves relative to the top portion of the cutter carrying end are considered to be a boundary wall. The boundary wall includes a stationary wall which is the top wall of the cutter carrying portion 7 and the hood 37 is considered to be a movable wall of the boundary wall. Severson also teaches that the boundary wall includes a stationary portion and a portion that is movable relative to the stationary portion. A portion is considered to be the top wall of the guard 37. Severson also teaches that the movable portion is being arranged and positioned to cooperate with the hair to be cut. See Figs. 1-3 and page 2, lines 6-115 in Severson.

Regarding claim 2, Severson teaches that means 9, 10, 37 includes a spring means 40 that cooperates with the movable portion 37 of the boundary wall. Severson also teaches that the spring means 40 spring loads the movable portion 37 in direction of the hair to be cut and wherein the movable portion 37 being movable in opposition to the force exerted by the spring means 40 when cooperating with hair to be cut.

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Regarding claim 5, Severson teaches everything noted above including a suction arrangement 9, 10, 37 is provided to suck away cut hair, and the suction arrangement includes a suction passage 9 that is defined by passage walls. Severson also teaches at least some of that passage walls extend close to the cutting arrangement 12, 16 and ends of which situated close to the cutting arrangement define a suction opening through which air be sucked into the suction passage 9. Severson also teaches that the air is sucked into the passage 18 in a direction of suction at a given velocity of flow. Severson also teaches a passage wall is formed by the boundary wall having the stationary portion and the movable portion 37.

Regarding claim 6, Severson teaches everything noted above including that the suction arrangement 9, 10, 37 includes a varier means 37, 40 for varying the velocity of the flow in the region of the suction opening and wherein the varier means 37, 40 are formed by the movable portion 37 of the boundary wall.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Severson in view of Woodward (2,496,613). Regarding claim 3, Severson teaches everything noted above except that the spring means 40 is in the form of a rod-type spring. However, the use of rod-type spring for biasing a cover or a wall member in a hand tools is well known in the art such as taught by Woodward. Woodward teaches a spring 24 connected between a frame or wall 4 and a lower portion 21 of a guard for biasing the guard to its extended position. See Figs. 1-3 and col. 3, lines 7-60 in Woodward. It would have been obvious to a person of ordinary skill in the art to replace the spring means 40 in Severson's hair clipper with a rod-type spring, as taught by Woodward, since the rod-type spring in Woodward functions the same as the tension spring in Severson and in both cases the spring forces the cover or the wall portion to its extended position.

Regarding claim 4, Severson, as modified by Woodward, does not teach expressly that the rod-type spring force lies in a range between 10 mN and 50 mN. However, it appears that the tension force required to extend section member 37 to its extended position is between 10 mN to 50 mN. In addition, it would have been obvious to a person of ordinary skill in the art to provide a tension force between 10 mN to 50 Nm for the spring in Severson's hair clipper, as modified above, since it is within a person of ordinary skill in the art to choose a specific spring force value that is suitable for biasing a wall member toward a frame.

Response to Amendment

8. Applicant's arguments filed on 06/01/06 have been fully considered but they are not

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persuasive. Applicant's arguments that Gaskins fails to teach "movable portion being arranged and positioned to cooperate with hair cut to be cut" is not persuasive. As stated above, Gaskins teaches that the boundary wall 10, 12 includes a stationary portion 30 and a portion 58 that is movable relative to the stationary portion 30. Gaskins also teaches that the movable portion is being arranged and positioned to cooperate with the hair to be cut. See Figs. 1-5 and col. 1, lines 55-72 and col. 2, lines 1-42 in Gaskins. Applicant's asserts that the "cooperation" limitation which is expressly claimed is directed to the movable portion moving "dependent...on the nature and condition of the hair." It appears that applicant is trying to import some limitations from the specification into the claims. It should be noted that during examination, the claims must be interpreted as broadly as their terms reasonably allow. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. *See In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claim 1 does not call for the moving portion to move according to the nature and condition of the hair. Claim 1 merely recites, "the moving portion being arranged and positioned to cooperate with the hair to be cut." In this case, Gaskin exactly teaches that the movable portion moves relative to the stationary portion and is arranged and positioned to cooperate with the hair to direct the hair into the chamber 18. The same argument is true with respect to rejection of claim 1 under 35 U.S.C. 102(b) as being anticipated by Severson. In addition, the specification does not define the "cooperation" as is argued by the applicant. The specification simply recites, "[T]he extend of the adjustment of adjustment section 35 hereby depends on the circumstances relating to the hair, i.e. on the hair density and the hair length and the hair

strength and hair rigidity.” See page 5, lines 23-25 in the specification. The term “cooperation” has not been even mentioned in this sentence. Furthermore, it is suggested that applicant claim that the movable portion is adjusted according to the nature and the condition of the hair during the hair cutting action. It should be noted that the “cooperation” of the movable portion and the hair to be cut does not imply that the movable portion moves according to the nature and condition of the hair.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant’s disclosure.

Degregorio, Jr. (7,076,878), McCambridge et al. (2002/0073549), Romani et al. (6,571,478), and Ligon (3,331,130) teach a hair-cutting apparatus having a suction opening.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501.

The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-93068300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GA/ga

August 17, 2006


BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER